

KELLEY DRYE & WARREN LLP

A PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS

1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D. C. 20036

(202) 955-9600

FACSIMILE

(202) 955-9792

NEW YORK, N.Y.

LOS ANGELES, CA.

MIAMI, FL.

CHICAGO, IL.

STAMFORD, CT.

PARSIPPANY, N.J.

BRUSSELS, BELGIUM

HONG KONG

AFFILIATED OFFICES

NEW DELHI, INDIA

TOKYO, JAPAN

EX PARTE OR LATE FILED

April 15, 1998

RECEIVED

APR 15 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

EDWARD A. YORKGITIS, JR.

DIRECT LINE (202) 955-9668

Magalie R. Salas, Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

Re: **EX PARTE PRESENTATION**

CCB/CPD Docket No. 97-24

CCB/CPD Docket 96-98

CCB/CPD Docket 95-185 /

File No. E-98-08

File No. E-98-10

File No. E-98-13

File No. E-98-14 through 18

95-185

Dear Ms. Salas:

Please take notice that yesterday, April 14, 1998, Edward A. Yorkgitis, Jr., with Kelley Drye & Warren, LLP and the undersigned, met with Kevin Martin and Paul Misener, legal advisors to Commissioner Furchtgott-Roth. A copy of the attached presentation was left with each legal advisor. At the meeting, we gave Messrs. Martin and Misener a general description of paging carriers' needs for fair and reasonable interconnection with local exchange carriers ("LECs"), including treatment of LEC facilities used to transport LEC-originated traffic to paging carriers for termination over the paging carriers' network that is consistent with the Commission's Rules and the *Local Competition Order* adopted on August 8, 1996.

KELLEY DRYE & WARREN LLP

Magalie R. Salas, Secretary
April 15, 1998
Page 2

In accordance with Section 1.1206 of the Commission's Rules, we are filing an original and two copies of this notice of *ex parte* presentation. Two additional copies have been provided for filing in each of the above-referenced dockets. If there are any questions concerning this notice, please do not hesitate to contact the undersigned directly.

Respectfully submitted,



Edward A. Yorkgitis, Jr.

cc: Kevin Martin
Paul Misener

Enclosure

PAGING NETWORK, INC.

April 14, 1998

***Ex Parte* Presentation**
CCB/CPD Docket No. 97-24
CC Docket No. 96-98

Benefits and Burdens

- Paging carriers are local telecommunications carriers entitled to same basic benefits as all other local telecommunications carriers
- They must also bear the same burdens as other local telecommunications carriers for such assessments as universal service

CMRS Interconnection Battles Have Been Hard Fought, But Ultimately Won

These battles, in part, paved the way for local wireline interconnection framework

- Co-carrier interconnection
- Compensation

HIGHLIGHTS

- 1968: The FCC's *Guardband Order* directed LECs to make interconnection available to paging carriers on non-discriminatory terms.
 - End office interconnection (then called Type 1) available for the first time.
- 1977 and 1980: *Memoranda of Understanding* between LEC and paging industries confirmed entitlement to co-carrier interconnection and availability of telephone number block.

HIGHLIGHTS (cont'd)

- 1987: The Commission clarified that its 1986 *Cellular Interconnection Policy Statement* applied with equal force to paging carriers
 - Access tandem interconnection (then called Type 2) made available for the first time.
 - Paging companies are co-carriers.
 - NXX codes made available to paging companies.

HIGHLIGHTS (cont'd)

- 1993: Omnibus Budget Reconciliation Act
 - Congress gave the Commission exclusive jurisdiction over wireless rates and entry (Section 332(c)(3)).
 - The Commission adopted Section 20.11 which requires LECs to compensate all CMRS carriers for transporting and terminating LEC-originated traffic.
 - Section 20.11 also obligates CMRS carriers to compensate LECs for CMRS-originated traffic.
- 1995: Because LECs continued to flout CMRS interconnection requirements, *e.g.*, charges for originating traffic, the FCC initiated CC Docket No. 95-185 to address CMRS-LEC interconnection.

Implementation of the 1996 Act: The FCC's *Local Competition Order*

- The 1996 Act further supported pre-Act policies and principles.
- In August 1996, the Commission's *Local Competition Order* (CC Docket No. 96-98):
 - Reaffirmed that paging carriers are telecommunications carriers (para. 1008)
 - Paging carriers transport and terminate traffic (para. 1092)
 - Paging carriers are entitled to reciprocal compensation (paras. 1008, 1092)
 - LECs may not charge paging carriers for delivery of LEC-originated traffic as of the effective date of the *Local Competition Order* (paras. 1042, 1062).

Eighth Circuit Review of the *Local Competitive Order* and the FCC's Rules

- Sections 51.703(a), 51.703(b), and 51.709(b) upheld *as they applied to CMRS carriers*.
- Court stated explicitly that FCC's jurisdiction to adopt these rules flowed from Section 332(c)(3).
- No party sought Supreme Court review of this aspect of the decision.

The LECs Benefit From Paging Interconnection To The Same Degree As Other CMRS, CLEC Interconnection Paradigms

- LECs charge the originating customer for traffic; in paging context, paging primarily a business tool, so measured/metered rates in addition to local service rates, where applicable.
- LECs avoid costs in most instances (\$0.0049 per pager call for Pacific Bell).

FCC's Current Paradigm Not Only Law, But Good Public Policy

- Retains technical neutrality for all services.
- Does not put government in position of favoring one technology or service over another.
- Avoids discrimination between and among carriers competing for provision of messaging services of all sorts.